IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE J.M.JAMES

MONDAY, THE 6TH NOVEMBER 2006 / 15TH KARTHIKA 1928

Bail Appl..No. 6476 of 2006()

CMP.3368/2006 of J.M.F.C.,NILAMBUR
C.R.NO.36/2006 OF NILAMBUR EXCISE RANGE.

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PETITIONERS/ACCUSED

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1. JAGADHEESAN, S/O.KUTTIKATTUTHODI RAMAN, VAZHIKADAVU AMSOM, KARAKKODU DESOM, NILAMBUR TALUK.

2. VISWANATHAN, S/O.ATHIYAN KUNJAN, VAZHIKADAVU AMSOM, KARAKKODU DESOM, NILAMBUR TALUK.

BY ADV. SRI.K.P.MUJEEB

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REPRESENTED BY PUBLIC PROSECUTOR, HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.P.N.SUKUMARAN.

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 06/11/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

J.M. JAMES, J.

Bail Application No. 6476 of 2006

Dated this the 6th November, 2006.

O R D E R

Petitioners are accused 1 and 2 in C.R.No.36/2006 of Nilambur Excise Range, for the offence punishable under Section 8(1) of the Abkari Act, for they were found in illegal possession of five litres of arrack. Both of them were accordingly arrested on 13.10.2006. Hence, this application for bail.

2. Heard both sides. The learned Public Prosecutor submitted that the first accused, first petitioner, is already on bail in C.R.No.12/2005 of the same excise range, and the present crime has been committed by him, while on bail. Hence, the Public Prosecutor submitted that the first petitioner, first accused, is not entitled for bail, as per the provision under Section 41A of the Abkari Act, as he cannot be said to be not guilty of the offence, and he will not commit further offence, while on bail.

3. However, considering the stage of the investigation, and the quantity seized in respect of the second petitioner, second accused, Viswanathan, I grant him bail, on he executing a bond for

Rs.25,000/= (Rupees Twenty Five Thousand only) with two solvent sureties, each for the like sum, to the satisfaction of the Judicial First Class Magistrate Court, Nilambur.

4. The second petitioner, second accused, shall report before the Investigating Officer, Inspector of Nilambur Excise Range, once in a week, on every Friday, starting from 10.11.2006, between 10 and 11 a.m., for a period of two months.

5. The prayer of the first petitioner, first accused, Jagadheesan, is rejected.

J.M. JAMES,
JUDGE

nj.